United States District Court
Northern District of California

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UNITED STATES DISTRICT COURT

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NORTHERN DISTRICT OF CALIFORNIA

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7   JAMES ELLIS JOHNSON,   Case No. 23-cv-05190-AMO

              Plaintiff,
8
                                             ORDER OF DISMISSAL
9   v.   Re: Dkt. No. 8

10   VERITAS INVESTMENT INC, et al.,

11   Defendants.

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13   Defendants Veritas Investment Inc, GreenTree Property Management, Inc. ("GreenTree"),

14   Jessica Castorena, and Ehsan Panah move to dismiss the complaint filed by pro se Plaintiff James

15   Ellis Johnson. Johnson opposes dismissal. ECF 13. Having considered all the papers filed by the

16   parties, the Court GRANTS Defendants' motion to dismiss.

17   **BACKGROUND**

18   The Complaint makes the following allegations, which the Court accepts as true for

19   purposes of considering this facial challenge to subject matter jurisdiction. *Wolfe v. Strankman*,

20   392 F.3d 358, 362 (9th Cir. 2004).

21   This case arises from a series of attacks on Johnson in his San Francisco apartment.

22   Defendants caused Johnson physical and emotional injury by: (1) illegally entering his apartment;

23   (2) removing sound proofing from his apartment; (3) attempting to poison him in his apartment;

24   (4) attacking him in his sleep in his apartment; and (5) slandering him. Compl. ¶¶ 6-15.

25   On his form complaint, Johnson checked the box for federal question jurisdiction, and he

26   states the following federal laws or rights are involved: "Negligence liability, Accessories before

27   the facts, to assault, Battery Attempted Murder, Slander, Defamation, Illegal Entree into my

28   Home." Compl. ¶ 3 (ECF 1 at 2, original text quoted as received). Johnson did not check the box

1   to allege the case belongs in federal court under diversity jurisdiction. *Id.*

2   <center>**DISCUSSION**</center>

3   Defendants filed a motion to dismiss for lack of subject matter jurisdiction, arguing that

4   this Court lack the authority to consider Johnson's Complaint because he has failed to allege a

5   cause of action created by federal law or that his Complaint requires resolution of a substantial

6   question of federal law. ECF 9 at 2. Plaintiff opposes the motion. ECF 13.

7   Federal courts, as courts of limited jurisdiction, have subject matter jurisdiction over cases

8   "arising under the Constitution, laws, or treaties of the United States." 28 U.S.C. § 1331; *see also*

9   *Empire Healthcare Assur., Inc. v. McVeigh*, 547 U.S. 677, 689-90 (2006) (noting that a case

10 "arises under" federal law if a "well-pleaded complaint establishes either that federal law creates

11 the cause of action or that the plaintiff's right to relief necessarily depends on resolution of a

12 substantial question of federal law" (citations omitted)).

13 Here, the Complaint does not raise a colorable federal claim. Johnson alleges physical and

14 emotional harm arising out of violations of state common law and state statutes. The only

15 reference to federal law is a potential violation of Title 15 U.S.C. § 1681, the Fair Credit

16 Reporting Act, cited in the first cause of action along with torts and negligence. *See* ECF 1 at 6.

17 Title 15 U.S.C. § 1681o provides a cause of action against persons or entities who negligently fail

18 to comply with the requirements of the Fair Credit Reporting Act. However, Johnson fails to

19 allege any negligent non-compliance with the federal statute because the Complaint makes no

20 reference to credit reporting. Johnson alleges instead that Defendants were negligent because

21 "They failed to do anything to stop the attack on Plaintiff on there [sic] property." ECF 1 at 6.

22 Johnson's allegations do not articulate a violation of federal law. Because no colorable federal

23 claim is asserted, this Court lacks federal question jurisdiction.

24 Johnson does not argue that the Court has subject matter jurisdiction based on diversity

25 grounds, but such jurisdiction is also missing. Diversity jurisdiction requires that the lawsuit is

26 between citizens of different states and that the matter in controversy exceeds $75,000. *See* 28

27 U.S.C. § 1332(a). The plaintiff bears the burden of pleading and proving the facts to establish

28 diversity jurisdiction, which "must be affirmatively alleged in the pleadings." *Bautista v. Pan*

<center>2</center>

1   *American World Airlines, Inc.*, 828 F.2d 546, 552 (9th Cir.1987) (quoting *In re Mexico City*

2   *Aircrash*, 708 F.2d 400, 404 n.4 (9th Cir.1983)).

3   Here, there is no diversity jurisdiction because all parties appear to be citizens of

4   California. Johnson resides in San Francisco, California. Compl. ¶ 1. Defendants Veritas

5   Investments, Inc., and GreenTree Property Management, Inc., are both California-based

6   corporations. Compl. ¶ 2. Additionally, Defendant Jessica Castorena and Defendant Ehsan Panah

7   are both domiciled in the state of California. Compl. ¶ 2. The Complaint lists California

8   addresses for all Defendants. The Court thus lacks subject matter jurisdiction based on diversity
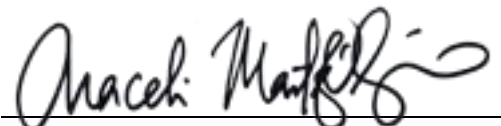
9   as well.

10   **CONCLUSION**

11   For the foregoing reasons, the Court GRANTS Defendants' Motion to Dismiss for lack of

12   subject matter jurisdiction. The Court hereby DISMISSES the Complaint WITHOUT

13   PREJUDICE. Johnson may file an amended complaint on or before February 26, 2024. If

14   Johnson chooses to file an amended complaint, he must allege violation of federal law or provide

15   facts to establish diversity jurisdiction as to these Defendants. No additional defendants may be

16   added to the amended complaint without leave of Court.

17   The Court encourages Johnson to consult with the Justice & Diversity Center of the Bar

18   Association of San Francisco's Legal Help Center for assistance. Appointments can be made by

19   calling (415) 782-8982 or emailing fedpro@sfbar.org. Lawyers at the Legal Help Center can

20   provide basic assistance to parties representing themselves but cannot provide legal representation.

21   More information is available at https://www.cand.uscourts.gov/about/court-programs/legal-help-

22   desks/. Johnson may also wish to obtain a copy of this District's *Handbook for Litigants Without*

23   *a Lawyer*, available in person at the Clerk's Office and online at the website listed above.

24   **IT IS SO ORDERED.**

25   Dated: January 26, 2024

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28   **ARACELI MARTÍNEZ-OLGUÍN**
     United States District Judge

United States District Court
Northern District of California

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